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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/624,339	07/21/2003	Si Barghelame	SUN103	6986

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EXAMINER

GIBSON, ROY DEAN

ART UNIT	PAPER NUMBER
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3739

DATE MAILED: 08/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/624,339

Applicant(s)

BARGHELAME, SI

Examiner

Roy D. Gibson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 July 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) 19 is/are allowed.
- 6) ☐ Claim(s) 1,3-7,9-12 and 14-18 is/are rejected.
- 7) ☐ Claim(s) 2,8 and 13 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- 1) ☐ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 12, 17 and 18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

As to claim 12, the meets and bounds of "imitating a breeze on a sunny day" are not defined. The phrase is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention.

Claims 17 and 18 depend from claim 18, which is assumed to be a typographic error. The examiner has assumed they depend from claim 16.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 3, 6-7, 10, 11 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Muller (4,114,205).

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As to claim 1, Muller discloses an enclosure defining a sauna chamber, said sauna chamber having a plurality of interior walls;

infrared-heating elements (5) located inside said sauna chamber;

said infrared heating elements being adjustable for timing and intensity (controlled via a sensor which varies the power over time to reach and maintain the set temperature);

said infrared heating elements being operable off of standard household electric current;

full spectrum lights (12) located within said sauna chamber;

said lights being adjustable for timing and intensity (control via a rheostat or dimmer device is well known in the art as well as timers for sauna lights); and

an exterior (col. 1, lines 51-col. 2, line 17, col. 2, line 65-col. 3, line 39).

But, Muller fails to disclose the lights are neodymium lights. However, the examiner maintains that full spectrum lights, as manufactured under the brand name Chromalux, have been available on the market since the earlier 1990's, and that it would have been obvious to a skillful artisan to utilize these lights in a sauna because of the claims that "Chomalux creates a pleasing, colorful and relaxing atmosphere that has been shown to enhance people's sense of comfort and well being" and that the lamps provide "bright light that mimics the spectrum of the Natural Sunlight (IR, visible spectrum and beneficial UVA rays: see attached data sheets for details).

As to claim 3, the data sheets for Chomalux further disclose that harmful UV rays are removed (see graph of Spectral Flux vs. Wavelength attached).

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As to claims 6 and 7, Muller discloses solid structure of wood, and the examiner maintains that since most saunas are provided in kit form, that the structure is collapsible for easy shipping and assembly (col. 2, line 65-col. 3, line 3). The structure of the dual walls with an air gap is merely a design choice, since other materials for insulation are well known in the art and are even more effective for heat and sound insulation.

As to claim 10, Muller further discloses the lights are located in a plurality of canisters at the top of the enclosure and the examiner maintains that it would have been obvious to a skillful artisan to also locate lights on the interior wall as well as required by the size and location of benches, etc.

As to claims 11 and 15, the examiner maintains that the addition of aromatherapy and magnetic therapy (assuming the magnets are for that purpose) are well known in the art and that it would have been obvious to one of ordinary skill in the art to add these to the sauna.

Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Muller in view of Sung (5,117,481). Muller fails to disclose a fan for air circulation, but, Sung discloses a sauna with a circulating fan (Figure 3 and col. 2, line 63-col. 3, line 20). Therefore, at the time of the invention it would have been obvious to one of ordinary skill in the art to modify the sauna of Muller, as taught by Sung, to provide a circulating fan for even distribution of air to all bodies.

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Claims 4, 5, 9, 14, 16 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Muller in view of Poss (4,277,855) and further in view of Rimmi (4,446,346).

As to claims 4 and 9, Muller discloses the controllable elements can be operated independently, but, Muller fails to specifically disclose an interior bench enclosing an area protected from the heat in the sauna, electronic equipment for music etc. and a control box on the exterior wall of the sauna. However, Poss discloses a sauna with such a bench arrangement (52) and provide with an audio system including radios, cassette decks, etc. (col. 3, lines 44-59 and col. 5, lines 20-59). In addition, Rimmi discloses an electric sauna in which the controls are mounted on the exterior for safety reasons (col. 3, lines 42-65). Therefore, at the time of the invention it would have been obvious to one of ordinary skill in the art to modify the device of Muller, as taught by Poss and Rimmi, to provide the above advantages of the additional elements or features as claimed.

Further to claim 5, Muller discloses all claimed elements of the sauna structure (Figure 1 and col. 2, line 65-col. 3, line 3). Note: a magnetic closure for the door is extremely well known in the art.

Allowable Subject Matter

Claim 19 is allowed.

Claims 2, 8 and 13 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claim 17 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.


Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Park (5,255,399) discloses an infrared sauna bath assembly.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Roy D. Gibson whose telephone number is 571-272-4767. The examiner can normally be reached on M-F, 7:30 am-4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Linda Dvorak can be reached on 571-272-4764. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Roy D. Gibson
Primary Examiner
Art Unit 3739

August 5, 2005